UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,	Criminal No. 11-96 (1) (RHK/LIB)
Plaintiff,	Civil No. 12-3185 (RHK)
v.	**ORDER**
Jeffrey Allen Stoltz,	
Defendant.	

Petitioner was convicted of being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(e)(1). He was sentenced to a prison term of 210 months. The Eighth Circuit Court of Appeals affirmed his conviction and sentence.

Now before the Court is a 28 U.S.C. § 2255 Motion to vacate, set aside or correct his sentence. He contends that his prosecution, pursuant to 18 U.S.C. § 922(g)(1), violated his constitutional right (1) to bear arms as established in the Second Amendment and (2) to be free from multiple punishments for the same offense under the double jeopardy clause of the Fifth Amendment. In addition, he asserts ineffective assistance of counsel for failing to conduct pretrial discovery and failing to raise his constitutional claims with the District Court.

It is abundantly clear that the Second Amendment and Commerce Clause issues raised by Petitioner are without merit, having previously been rejected not only by the Eighth Circuit but by every other Circuit which has addressed these issues. His double

jeopardy arguments are likewise without merit, having been rejected by the Eighth

Circuit and other Courts of Appeals addressing the issue.

Because his constitutional challenge to his prosecution under § 922(g)(1) and

sentencing under § 924(e)(1) are without merit, it is difficult to reach a conclusion that

his counsel has been ineffective for failing to conduct discovery with respect to, or failing

to assert, such arguments.

Based on the foregoing, and upon all the files, records and proceedings herein, **IT

IS ORDERED** that Petitioner's Motion under 28 U.S.C. § 2255 (Doc. No. 88) is

DENIED; Defendant will **NOT** be granted a Certificate of Appealability in this matter.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 20, 2013

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s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge

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